

App. Serial No. 10/564,582
Docket No.: NL030878US

JUL 13 2007

Remarks

Claims 1-22 are currently pending in the patent application. For the reasons and arguments set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

In the instant Office Action dated March 19, 2007, claims 1-22 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Hiromoto (JP2001230375A).

Applicant respectfully traverses the Section 102(b) rejection of claims 1-22 because the cited portions of the Hiromoto reference are abstractions of specific teaching which are in a different language. Moreover, these cited portions do not appear to resemble or otherwise correspond to various claim limitations, including those directed to the claimed tilling structures. For example, as best as can be understood without a translation of the Hiromoto reference, the cited portions of Hiromoto appear to teach a ground shield (*see e.g.*, Figure 2 and Paragraph 0063 of Applicant's Specification), which one of skill in the art would recognize does not correspond to tilling structures (*see, e.g.*, Paragraphs 0004-0007 of Applicant's Specification).

Accordingly, the Section 102(b) rejection of claims 1-22 is improper and Applicant requests that it be withdrawn. Applicant submits that the Office Action's citing to the Abstract of the Hiromoto reference is improper because it does not rely on the underlying document or provide a corresponding English translation of that document. "Citation of an abstract without citation and reliance on the underlying scientific document itself is generally inappropriate where both the abstract and the underlying document are prior art." *Ex parte Jones*, 62 USPQ2d 1206, 1208 (Bd.Pat.App. & Int. 2001). "[A] proper examination under 37 CFR § 1.104 should be based on the underlying documents and translations, where needed. Accordingly, the preferred practice is for the examiner to cite and rely on the underlying document." *Id.* "To determine whether both the abstract and the underlying document are prior art, a copy of the underlying document must be obtained and analyzed." *See*, M.P.E.P. § 706.02. The Office Action cites to the Abstract of the Hiromoto reference without relying on the underlying document or providing an English translation of that document. Accordingly, the Section 102(b) rejection of claims 1-22 is improper and Applicant requests that it be withdrawn. Should any rejection based upon the Hiromoto reference

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be maintained, Applicant respectfully requests an English translation of the underlying document and an opportunity to respond thereto.

To the extent that the Examiner would continue to reject Applicant's claims based on a complete translation of the Hiromoto reference, Applicant submits that there appears to be many additional discrepancies regarding the alleged relevancy of Hiromoto. For example, the cited portions of Hiromoto do not appear to correspond to claim 4 limitations directed to the geometrical pattern of tiling structures at two different layers being different in shape and/or orientation. The Office Action alleges that Hiromoto's polysilicon 5b and metallic silicate 8b correspond to tiling structures; however, polysilicon 5b and metallic silicate 8b appear to have the same shape and orientation. *See, e.g.*, Figures 1a, 1b and 3.

In another example, the cited portions of Hiromoto do not appear to correspond to claim 8 limitations directed to the tiling structures being a plurality of substantially triangular elements. Hiromoto's polysilicon 5b and metallic silicate 8b do not appear to be formed of substantially triangular elements. *See, e.g.*, Figures 1a, 1b and 3.

In a further example, the cited portions of Hiromoto do not appear to correspond to claim 15 limitations directed to a further passive element. Hiromoto's Abstract identifies an inductor 14b; however, there is no mention of a further passive element. *See, e.g.*, Figures 1a and 1b; and the Abstract. In an additional example, the cited portions of Hiromoto do not appear to correspond to claim 16 limitations directed to the further passive element being a capacitive element. Hiromoto's Abstract does not mention a capacitive element. *See, e.g.*, the Abstract.

Applicant notes that minor amendments have been made to claims 13 and 19 to improve readability. These amendments are not being made to overcome the rejections raised by the instant Office Action, which fail for the reasons discussed above.

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In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063 (or the undersigned).

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